

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6286**

**BILL NUMBER:** SB 148

**NOTE PREPARED:** Dec 8, 2012

**BILL AMENDED:**

**SUBJECT:** Theft.

**FIRST AUTHOR:** Sen. Kruse

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill makes theft:

1. A Class A misdemeanor instead of a Class D felony if the fair market value of the property that is the subject of the theft is less than \$750;
2. A Class D felony if the fair market value of the property is at least \$750 but less than \$100,000; and
3. A Class C felony if the fair market value of the property is at least \$100,000 or if the property that is the subject of the theft is a certain kind of valuable metal.

The bill provides that it is burglary, a Class C felony, for a person to break and enter a building or structure of another person with intent to commit theft as a Class A misdemeanor in the building or structure.

The bill permits a law enforcement officer to arrest a person if the officer has probable cause to believe that the person has committed or attempted to commit theft as a Class A misdemeanor.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** This bill potentially reduces the costs to the state if an offender is convicted of theft of property valued at less than \$750 where the penalty is a Class A misdemeanor rather than a Class D felony. This is because offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed

in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Background:** Current law provides that a person who commits theft is guilty of a Class D felony if the value of the stolen property is less than \$100,000 and a Class C felony if the value of the stolen property is at least \$100,000. If the person is also guilty of breaking and entering a building or structure of another person with intent to commit the theft, it is burglary, a Class C felony.

The bill lowers the penalty of theft to a Class A misdemeanor instead of a Class D felony, if the value of the stolen property is less than \$750. The person would still be guilty of a Class C felony, if the person is also guilty of breaking and entering a building or structure to commit theft of property valued at less than \$750.

Approximately 2,122 people were committed to state prison during FY 2012 for theft.

**Explanation of State Revenues:** If there are cases that are reduced to a Class A misdemeanor from a Class D felony, revenue to both the Common School Fund and the state General Fund would likely decrease. The maximum fine for a Class D felony is \$10,000 and \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund. However, any decrease in revenues would likely be small.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. However, any additional expenditures would likely be small.

Permitting a law enforcement officer to arrest a person if the officer has probable cause to believe that the person has committed or attempted to commit theft as a Class A misdemeanor should not increase local expenditures.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Chuck Mayfield, 317-232-4825.